IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 14641 of 2004

Between:

D.Venkata Raju, s/o Narasimha Raju,
Tenent, Grama Panchayathi, Ganapavaram (V&M),
West Godavari District.

..... PETITIONER

AND

1 The A.P.Transco, rep., by its Member Secretary, Vidyut Soudha, Hyderabad.
2 Andhra Pradesh Eastern Power Distribution Corporation Ltd., rep., by its

Superintending Engineer, Rajahmundry, East Godavari District.
3 Andhra Pradesh Eastern Power Distribution Corporation Ltd., rep., by its

Divisional Engineer, Assessments Division, River Bund,

Old Power House Compound, Rajahmundry, East Godavari District.
4 Andhra Pradesh Eastern Power Distribution Corporation Ltd., rep., by its

Asst.Divisional Engineer, Ganapavaram, West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus or any other appropriate writ, order or direction declaring the impugned action of the respondents in falsely implicating the petitioner in the case of pilferage of energy without following due process of law and also in issuance of two provisional assessments, one by the 4th respondent through his impugned Notice No.ADE/O/GNP/F-DOCKET/D.No.423/2004 dt.15-6-2004 for Rs.16,794/- and another by 3rd respondent through his proceedings DE/A/RJY/AE/DOC/TPG/555/D.No.6386 dt.9-7-2004 increasing the amount to Rs.41,046/- as illegal, arbitrary and violative of principles of natural justice etc., and

consequently direct the respondents to refund the excess amount collected from the petitioner and grant such other just and consequential relief or reliefs

Counsel for the Petitioner: MR.N.V.ANANTHA KRISHNA

Counsel for the Respondent No.: Mr.M.Subba Rao

The Court, at the stage of admission, made the following :

ORDER:

This writ petition is filed aggrieved by the proceedings issued by the fourth respondent, dated 15.06.2004.

As can be seen from the impugned proceedings, the premises of the petitioner which was provided with Service Connection No.531/II was inspected on 15.06.2004 and on the basis of alleged irregularities found, the fourth respondent issued the impugned proceedings stating that it prima facie indicates that the petitioner is guilty of pilferage of energy. The value of the alleged pilfered energy was provisionally assessed at Rs.16,594/- and the petitioner was called upon to pay a sum of Rs.8,297/- being half of the assessed amount, failing which, electricity supply to the petitioner's service connection will be disconnected. The petitioner was also informed that an enquiry will be conducted by the Superintending Engineer and the petitioner may make his representation within one month. Challenging the said proceedings, this writ petition is filed.

I have heard the learned counsel for the petitioner and Sri M.Subba Rao, the learned standing counsel appearing for respondents.

The issue involved in this writ petition is squarely covered by the Judgment of a Division Bench of this Court in W.A. Nos. 452 and 477 of 2004, dated 11.03.2004, wherein the Division Bench while interpreting the provisions of the Electricity Act, 2003 held that there is no authority or power to the respondents

to discontinue or stop the electricity supply or to call upon the consumer to pay even part of the provisional assessment till the final assessment is made. Admittedly, in the case on hand, the inspection was conducted after the commencement of the Electricity Act, 2003.

Accordingly, following the above decision of the Division Bench, the impugned assessment order is set aside, leaving it open to the assessing authority to make a final assessment in accordance with law after considering the explanation submitted by the petitioner. Till such final assessment is made, there shall be a direction not to disconnect the power supply to the petitioner's service connection.

Accordingly, writ petition is disposed of. No costs.

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30-09-2004

klp

To

1 The Member Secretary, A.P.Transco, Vidyut Soudha, Hyderabad.
2 The Superintending Enginner,Andhra Pradesh Eastern Power Distribution Corporation Ltd., East Godavari District.
3 The Divisional Engineer,Andhra Pradesh Eastern Power Distribution Corporation Ltd., Assessments Division, River Bund,

Old Power House Compound, Rajahmundry, East Godavari District.
4 The Asst.Divisional Engineer, Andhra Pradesh Eastern Power Distribution Corporation Ltd., Ganapavaram, West Godavari District.

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